

## §19.905

(a) Will afford the security and protection to the revenue intended by the prescribed specifications;

(b) Will not hinder the effective administration of this part; and

(c) Will not be contrary to any applicable provisions of law. Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations with respect thereto set forth in the approval of the application. Failure to comply in good faith with such procedures, conditions, and limitations will automatically terminate the authority for such variations and the proprietor thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgment of the regional director (compliance) the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation. Where the proprietor desires to employ such variation, he shall submit a written application to do so to the regional director (compliance). The application will describe the proposed variations and set forth the reasons therefor. Variations will not be employed until the application has been approved, except when the emergency requires immediate action to correct a situation that is threatening to life or property. Such corrective action may then be taken concurrent with the filing of the application and notification of the regional director (compliance), via telephone. The proprietor shall retain, as part of the records available for examination by ATF officers, any application approved by the regional director (compliance) under the provisions of this section.

(Sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

### §19.905 Taxes.

Distilled spirits may be withdrawn free of tax from the premises of an alcohol fuel plant exclusively for fuel use in accordance with this subpart. Payment of tax will be required in the case of diversion of spirits to beverage use or other unauthorized dispositions. The provisions of subpart C of this part are

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applicable to distilled spirits for fuel use as follows:

(a) Imposition of tax liability (§§19.21 through 19.25);

(b) Assessment of tax (§§19.31 and 19.32); and

(c) Claims for tax (§§19.41 and 19.44).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1314, as amended (26 U.S.C. 5001); sec. 232, Pub. L. 96-223, 94 Stat. 278 (26 U.S.C. 5181))

[T.D. ATF-207, 50 FR 23682, June 5, 1985]

### §19.906 Special (occupational) tax.

(a) *General rule.* A proprietor of an alcohol fuel plant established under this subpart shall be subject to a special (occupational) tax as prescribed in subpart Ca of this part, and shall hold a separate special tax stamp to cover the alcohol fuel operations.

(b) *Exemption for small plants (effective July 1, 1989).* On and after July 1, 1989, paragraph (a) of this section shall not apply to small alcohol fuel plants as defined in §19.907. If the annual production (including receipts) of a small plant exceeds 10,000 proof gallons in any calendar year, special tax is due as provided in §19.49(a)(1) for the special tax year (July 1 through June 30) commencing during that calendar year, regardless of whether an application for change of plant type under §19.921(a) has been filed or approved. If a medium or large plant produces 10,000 or fewer proof gallons (including receipts) in any calendar year, the plant shall be exempt from special tax under this paragraph, as for a small plant, for the special tax year (July 1 through June 30) commencing during that calendar year, regardless of whether an application under §19.921(c) has been filed or approved.

(26 U.S.C. 5081)

[T.D. ATF-271, 53 FR 17543, May 17, 1988, as amended by T.D. ATF-285, 53 FR 12609, Mar. 28, 1989; T.D. ATF-312, 56 FR 31077, July 9, 1991]

## DEFINITIONS

### §19.907 Meaning of terms.

When used in this subpart, and in forms prescribed under this subpart, terms shall have the meaning given in this section. Words in the plural form include the singular and vice versa, and

words indicating the masculine gender include the feminine. The terms “includes” and “including” do not exclude things not enumerated which are in the same general class.

*Alcohol fuel plant or plant.* An establishment qualified under this subpart solely for producing, processing and storing, and using or distributing distilled spirits to be used exclusively for fuel use.

*Alcohol fuel producer's permit.* The document issued pursuant to 26 U.S.C. 5181 authorizing the person named therein to engage in business as an alcohol fuel plant.

*ATF officer.* An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this subpart.

*Bonded premises.* The premises of an alcohol fuel plant where distilled spirits are produced, processed and stored, and used or distributed. Premises of small alcohol fuel plants, which are exempt from bonding under §19.912(b), shall be treated as bonded premises for purposes of this subpart.

*CFR.* The Code of Federal Regulations.

*Director.* The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

*Fuel alcohol.* Distilled spirits which have been rendered unfit for beverage use at an alcohol fuel plant as provided in this subpart.

*Gallon or wine gallon.* The liquid measure equivalent to the volume of 231 cubic inches.

*Person.* An individual, trust, estate, partnership, association, company or corporation.

*Proof.* The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

*Proof gallon.* A gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

*Proprietor.* The person qualified under this subpart to operate the alcohol fuel plant.

*Region.* A Bureau of Alcohol, Tobacco and Firearms region.

*Regional director (compliance).* The principal regional official responsible for administering regulations in this subpart.

*Render unfit for beverage use.* The addition to distilled spirits of materials which will not impair the quality of the spirits for fuel use as prescribed and authorized by the provisions of this subpart.

*Secretary.* The Secretary of the Treasury or his delegate.

*Spirits or distilled spirits.* That substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof from whatever source or by whatever process produced), but not fuel alcohol unless specifically stated. For purposes of this subpart, the term does not include spirits produced from petroleum, natural gas, or coal.

*This chapter.* Title 27, Code of Federal Regulations, Chapter I [27 CFR Chapter I].

*Transfer in bond.* The transfer of spirits between alcohol fuel plants or the transfer of spirits to or from a distilled spirits plant qualified under 26 U.S.C. 5171 and an alcohol fuel plant.

*Type of plant.* The following three types of alcohol fuel plants are recognized in this subpart:

(a) *Small plant.* An alcohol fuel plant which produces (including receipts) not more than 10,000 proof gallons of spirits per calendar year.

(b) *Medium plant.* An alcohol fuel plant which produces (including receipts) more than 10,000 and not more than 500,000 proof gallons of spirits per calendar year.

(c) *Large plant.* An alcohol fuel plant which produces (including receipts) more than 500,000 proof gallons of spirits per calendar year.

*U.S.C.* The United States Code.

#### PERMITS

#### § 19.910 Application for permit required.

Any person wishing to establish an alcohol fuel plant shall first make application for and obtain an alcohol fuel producer's permit. The application for a permit will be on Form 5110.74. The